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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
1992 Annual Access Tariff Filings	)	CC Docket No. 92-141

APPLICATION FOR PARTIAL REVIEW

The Ameritech Operating Companies,[1] pursuant to sections 1.104 and 1.115 of the Commission's Rules, hereby ask the Commission to review that aspect of the Bureau's recent order in the above-captioned proceeding[2] that requires the Companies to allocate their overall interstate price cap sharing amount based on relative basket revenues and prohibits the Companies from using basket-specific earnings as an allocator.[3] Specifically, the Bureau's ruling involves a question of policy which should be overturned by the Commission.

The Companies would concede that, in an abstract sense, the Bureau's ruling is correct and completely in line with the philosophy of price caps. It is true that, under price caps, basket-specific costs and basket-specific earnings should not form the basis for any Commission decision or regulation. On the other hand, the Commission's decision to include the Interexchange category in the computation of overall interstate earnings subject to sharing has introduced a distortion into the price caps sharing process which would yield an unfair result if the Companies were required to allocate sharing based on basket revenues.

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[1] The Ameritech Operating Companies are: Illinois Bell Telephone Company, Indiana Bell Telephone, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

[2] *In the Matter of 1992 Annual Access Tariff Filings*, CC Docket No. 92-141, Memorandum Opinion and Order, DA 92-841 (released June 22, 1992)("Bureau Order").

[3] *Id.* at paras. 4-8.

The Bureau begins its discussion of its view of the appropriate sharing allocation mechanism by noting that

> the goals of the Commission's price cap plan [is] to move away from cost allocation systems and instead focus on price. *** Indeed, shifting the focus to prices and away from complex and inherently arbitrary cost allocation systems is one of the principle benefits of the price cap system.[4]

With this the Companies wholeheartedly agree. Furthermore, the Companies concur with the Bureau's observation that the Commission's decision not to adopt a basket-by-basket sharing device is a sound one.[5] Moreover, the Companies would agree that "normally," in light of those findings, the allocation of sharing on the basis of basket-specific revenues would be appropriate. However, the Commission's decision to include the Interexchange category in the price cap sharing mechanism[6] introduced a distortion into the price cap mechanism which, in the Companies' case, because of their relatively significant amount of interexchange business, would render a strict allocation on the basis of basket revenues substantially unfair to their Interexchange customers.

As the Companies pointed out in their petition for reconsideration of the Commission's price cap order,[7] there are several reasons why Interexchange services should not have been included in the calculation for overall earnings in

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[4] Bureau 's Order at paras. 5 and 7.

[5] *Id.*

[6] The Commission's decision to include the interexchange service category in the price cap mechanism was only clarified in its order on reconsideration in the price cap proceeding. *In the Matter of Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Order on Reconsideration, FCC 91-115 (released April 17, 1991)("Price Cap Reconsideration Order") at paras. 95-97.

[7] Relevant sections from that petition are appended hereto as Attachment A.

the Commission's price cap sharing mechanism.[8] The Commission's rate of return procedures specifically excluded Interexchange services. It was certainly anomalous for the Commission to include the revenues and costs of services which were never subject to rate of return regulation in with other services in calculating a sharing amount that is measured on achieved rate of return. Moreover, as the Companies noted, application of the sharing mechanism to the LECs' competitive Interexchange services was inconsistent with the Commission's treatment of AT&T under its price cap plan -- which, of course, required no sharing.

However, the Commission did not agree with the Companies and, instead, chose to include Interexchange services in with interstate access services in the computation of the price cap LECs' sharing obligation. Further, however, in that same order, the Commission declined to specify any particular methodology for sharing allocation, stating that

> sharing adjustments, like all exogenous adjustments, [must] be flowed through on a cost-causative basis. *** We therefore find no present need to specify a particular method of reflecting "cost causation."[9]

While MCI had asked the Commission to <u>require</u> that sharing be allocated on the basis of basket earnings, the Commission declined to adopt MCI's method as a requirement, but did not preclude its use. Thus, the Commission left the door open to the implementation of a sharing mechanism that minimizes the distortion caused by including the interexchange services in the computation of the price cap sharing amount.

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[8] *See* Ameritech Operating Companies' Petition for Reconsideration filed November 21, 1990.

[9] Price Cap Reconsideration Order at para. 113.

The Companies, in their annual access tariff filing (Transmittal No. 617) proposed just such an allocation mechanism. Specifically, the Companies showed that allocating the overall interstate sharing amount back to their customers based on basket-specific earnings results in an imminently fair allocation of sharing because it benefits customers in proportion to their contribution to the Companies' sharing obligation.[10]

Table I below compares each basket's contribution to sharing with the results of the revenue-based allocation method ordered by the Bureau and the method proposed by the Companies.

TABLE I

Comparison of Contribution to Overall
Sharing Amount and Sharing Allocation
(in millions of dollars)

Basket	Contribution to Sharing	Allocation Based on Revenues	Allocation Based on Earnings over 12.25%
Common Line	(11.1)	4.0	0
Traffic Sensitive	(2.1)	4.3	0
Special Access	10.7	1.7	4.7
Interexchange	12.8	0.3	5.6
Total	10.3	10.3	10.3

Note: "Contribution to Sharing" represents the difference between the actual earnings and the earnings that would have produced a 12.25% rate of return multiplied by 50%. To obtain the final sharing level, this total amount is then grossed up for taxes and interest. The two columns displaying the allocation of sharing based on revenue and basket earnings above 12.25% display the earnings to be shared, not the final sharing amount.

[10] The relevant section of the Companies' response opposing their proposed sharing mechanism is included as Attachment B. For convenience, a portion of that argument will be reproduced here.

As the table shows, using revenues as an allocator results in crediting the Common Line and Traffic Sensitive baskets with a total of $8.3M even though those two baskets combined actually had a negative contribution to sharing of $13.2M. And while the Common Line basket earned at 10.58% in 1991, the revenue-based allocation drives those rates even lower despite the fact that they earned below the Commission's authorized rate of return of 11.25%. Further, the revenue-based allocation attributes only $2.0M to the Special Access and Interexchange baskets even though they contributed $23.5M to sharing. The unfairness of the methodology is underscored by the fact that it allocates only 3% of the sharing amount to the Interexchange basket even though the Companies would have had no sharing obligation whatsoever had Interexchange not been included in the determination of the overall sharing amount in the first instance.

On the other hand, Table I demonstrates the reasonableness of the Companies' methodology in their particular case. Special Access and Interexchange are credited with the entire sharing amount in proportion to each basket's contribution.

The Bureau concludes that "a carrier's obligation to share revenues with its customers is calculated on the basis of its total interstate revenues."[11] It is perhaps more relevant to say that the obligation to share is based on productivity achievements as indirectly measured by total interstate earnings. There is, after all, no direct correlation between revenues and either productivity or earnings.

While the Companies agree with the Commission that a basket-by-basket sharing mechanism is inappropriate,[12] once the overall interstate price cap

[11] Bureau Order at 6.

[12] Such a mechanism would require sharing based on each basket's earnings regardless of the earnings of other baskets. Price Cap Reconsideration Order at paras 93-94.

sharing amount is determined based on an examination of overall interstate earnings, allocation of that amount back to the baskets on the basis of basket-specific earnings is, at least in this case, a reasonable and cost-causative method. The inclusion of the Interexchange category in the calculation of the overall interstate sharing amount causes a distortion which revenue-based allocation builds upon. A basket-earnings based allocation of the overall interstate sharing amount, in this case, mitigates the distortion by flowing back to interexchange customers a proportionate share of their contribution to that sharing figure.

The Companies do not ask the Commission to find that a basket-earnings based allocation is the only reasonable way to allocate interstate sharing. Rather, they only request the Commission to find that, in this case, the Companies proposed method of allocation is reasonable, cost causative, and permissible.

Respectfully submitted,

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economic environment price caps was meant to engender and defeat the purpose of the regulation. The Commission must articulate an intent that while complaints will remain available under price caps, the questions of whether rates are unjust or unreasonable or unfairly discriminatory will be judged within the context of incentive, not rate of return, principles.

3. Interexchange Services Should Not Be Part of the Calculations for Overall Earnings in the Sharing Mechanism

The Commission should clarify that only interstate access service data is relevant for calculating returns used in the application of the price cap sharing mechanism. Given the current regulatory status, it would be inappropriate to include any other data in that computation.

The Second Report and Order bases the price cap sharing mechanism on the rate of return prescribed in Docket No. 89-624. Indeed, the Second Report and Order specifically incorporates that docket into the price cap proceeding.[15/] The rate of return in that docket relates only to total interstate access service data.

15/ Second Report and Order, para. 157. However, as of the date of the filing of this PFR, the actual order in Docket No. 89-624 pertaining to rate of return has yet to be released by the Commission. This places LECs, such as the Ameritech Operating Companies, at an enormous disadvantage in addressing issues in Reconsideration Petitions which are integrally related to the findings and conclusions contained in the yet to be disclosed rate of return order.

Consistent with such a reference, the new Part 65 price cap rules, as adopted in Appendix B of the Second Report and Order, require that exchange carriers report earnings (to be used, in part, for sharing mechanism calculations) on the basis of total interstate _access service_ information only.[16/] Finally, the Second Report and Order specifies that price cap earnings data be reported on FCC Form 492, an item designed to account for only interstate _access services_.[17/]

On the other hand, other parts of the Second Report and Order belie ambiguity. Other parts of the text indicate that the price cap sharing mechanism "is based on total _interstate_ rate of return."[18/] Such language could be read as expanding sharing adjustment rate of return data beyond only that related to access services to include any interstate service offered by LECs.

Of course, such a determination would be inconsistent with existing Commission rules and with the development of the sharing mechanism itself. Thus, the Commission should affirm that earnings reports, as set out in its new regulation Sec. 65.600(d), will continue to be made on the basis of total interstate _access service_ data alone. Any other resolution of the inconsistency would be contrary to the requirements of the

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16/ Second Report and Order, Appendix B, Sec. 65.600(d).

17/ Second Report and Order, para. 384.

18/ Second Report and Order, paras. 151, 376, 378.

Administrative Procedures Act and constitute arbitrary and capricious agency action.

The Commission should avoid the inclusion of interstate services other than access services in overall earnings calculations for several reasons. First, the rate of return procedures specifically exclude such other services and the Commission never indicated an intent to change this long standing policy. Second, LECs were not provided with adequate notice and opportunity to comment on the expanded application of the rate of return prescription (to all interstate services) as required by the Administrative Procedures Act, 5 U.S.C. 553(b) and (C). Since interexchange services were specifically excluded by the Commission's rules from the procedure for developing a rate of return, it would be arbitrary and capricious to apply that rate of return to those services now. Third, application of the sharing mechanism to such competitive interexchange services is inconsistent with the treatment accorded AT&T's comparable services.

a. The Rate of Return Prescription Procedures Specifically Exclude Interexchange Services

The rate of return proceeding (Docket 89-624) was conducted pursuant to Part 65 of the Commission's rules.19/ Those rules,

19/ 1990 Represcription Proceeding Order, FCC 89-362, para. 4 (released December 29, 1989).

and the return prescribed pursuant to them clearly apply to a LEC's interstate _access services_ alone.[20/] The limitation was not inadvertent:

> We have not prescribed a return for the interstate interexchange or non-access services of exchange carriers, such as "corridor services" . . . and we have no present plans to do so.[21/]

Subsequent rate of return prescriptions adhere to this policy and have been expressly limited to interstate _access services_.[22/] The Commission has never indicated an intention to change this policy. In fact, the Commission limited the pending proceeding considering revisions to the Part 65 rules (Docket No. 87-463) to refinements of "the procedures and methodologies for represcribing rates of return for... the exchange carriers _access services_."[23/] Consistent with the prescribed rate of return, the Commission's rate of return reporting rules do not include interexchange services.[24/] And, although in the Second Report and Order the Commission revised its rate of return

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20/ 47 CFR 65.700, _et. seq._

21/ Interstate Return Rules, 50 Fed. Reg. 33786, para. 3 (August 25, 1985); _see also_ 47 C.F.R. Sec. 69.2(s).

22/ _See_ Prescription Order, 60 Rad. Reg. 2d 1589, 1596, 1607, 1618 (1986).

23/ Rate of Return Refinement Proceeding, FCC 87-315, para. 1, (released October 13, 1987) (emphasis added).

24/ 47 C.F.R. 65.600, FCC Form 492.

reporting rules, it did not include the requirement to report non-access service returns.[25/]

b. No Notice Was Provided of the Expanded Application of the Rate of Return

In the 1990 represcription proceeding, which is part and parcel of the price cap proceeding, the Commission did not provide any notice that the revised return would apply not only to access services but also to those other interstate services offered by LECs. The failure to provide adequate notice and an opportunity to comment prior to the adoption of an expanded application violates the requirements of the Administrative Procedures Act.[26/] Clearly, the Commission is required, even in an omnibus rulemaking proceeding, to provide specific notice that a longstanding policy may be modified.[27/] In this case the policy is in fact a rule, adopted and followed in developing a rate of return.

In addition, the Commission's Second Report and Order fails to provide a reasoned explanation for the expanded application. Administrative agencies must provide the basis and rationale for their decisions to avoid a finding, upon review, of arbitrary and

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25/ Second Report and Order, para. 384.

26/ 5 U.S.C. Sec. 553.

27/ Reader v. FCC, 865 F.2d 1298 (D.C. Cir., 1989); Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1971) ("An agency changing its course must supply a reasoned analysis indicating that prior policies are being deliberately changed, not casually ignored . . .").

capricious agency action.[28] In this case, no rationale is contained in the record to explain the distinct change of applying the rate of return to interexchange services.

Finally, since the development of the rate of return prescription specifically excludes the consideration of non-access services, it would be inconsistent and arbitrary to now apply a rate of return so developed to them. Yet that is exactly how the sharing mechanism, if based on the apparent definition of total interstate earnings, would operate.

c. Application of the Sharing Mechanism to the LECs' Competitive Interexchange Services is Inconsistent with the Treatment Accorded AT&T's Comparable Services

The application of the sharing mechanism to interexchange services is also inconsistent and arbitrary since a similar mechanism does not apply to AT&T's comparable interstate services under its price cap plan. The Second Report and Order specifically acknowledges that LEC interexchange services were competitive with AT&T's services.[29] Based on this fact, the Commission held that it would be both "accurate and equitable" for local exchange carriers to be measured by the same

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28/ Western Union v. FCC, 856 F.2d 315, 318 (D.C. Cir. 1988) ("The FCC must demonstrate a rational connection between facts found and choice made . . . This connection must appear in the agency decision and record.")

29/ Second Report and Order, para. 207.

productivity factor (3%) as governs AT&T's competing services.[30/]
Given this similarity of competing services and the fact that such services are isolated from access services under the price cap plan, no rational basis exists for this disparate treatment. The application of the sharing mechanism to only LEC interexchange services should be eliminated by the Commission on reconsideration.

4. Depreciation and Tax Rate Changes Should Be Exogenous; In Particular, the Price Cap Formula Should Treat the Current Tax Provisions Related to Normalization Exogenously

The Commission should reconsider its characterization of tax and depreciation rate changes as endogenous to the price cap formula. Both items fit within the parameters of the Commission's definition of exogenous costs. In particular, the Commission should reconsider its failure to recognize item existing tax normalization changes as exogenous items.

a. Future Depreciation and Tax Rate Changes Should be Treated As Exogenous Costs

Inherent in the concept of incentive regulation is the idea that a carrier should not be penalized by or benefit from the

30/ *Id.*

cost influencing effects of external factors that are beyond its control.[31] Thus, the Commission acknowledges that some costs should be reflected exogenous to the price cap formula.[32] Contrary to this stated purpose, the Commission persists in denying that treatment to rate changes related to depreciation and tax.

The Commission's assertion of carrier control of the effect of depreciation rate change through the carrier's ability to determine when a rate is implemented will not wash. For example, monetary changes due to separations rule changes are afforded exogenous treatment.[33] Such separations changes are ordered by the Commission using a process almost identical to the one it employs to specify depreciation rate changes, which it treats endogenously.

As for taxes, the Commission explains its decision to find future tax changes "endogenous" as influenced by the fact that the price cap productivity adjustment -- the GNP-PI -- will automatically reflect tax changes.[34] But the Commission acknowledges that the GNP-PI already reflects productivity, too, and yet it adds a "telecommunications" related productivity offset (3.3% or 4.3%) to its price cap formula. Similarly, the

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31/ Second Report and Order, para. 166; see also para. 173 and n.186.

32/ Second Report and Order, para. 166.

33/ Second Report and Order, para. 167.

34/ Second Report and Order, paras. 176-77.

factored state taxes in the "gross-up" process in calculating the final sharing amount. In addition, expense increases reflected in the Companies' reports are properly documented. Moreover, exogenous cost changes due to excess deferred tax reserve and separations changes were correctly determined.

The Commission's authority to reject tariffs is limited to instances where a filed tariff is "demonstrably unlawful on its face." To justify rejection, a petitioner must show that the tariff clearly violates applicable restrictions, in particular, the Communications Act, the Commission's rules, or a prior Commission order.[4] Suspension is authorized only when there is reason to believe that the tariffs are not just and reasonable as the Communications Act requires. As shown in this Reply, the petitions fail to establish an adequate basis for rejection or suspension of the Companies' filing. Accordingly, the petitions, as they relate to the Ameritech Operating Companies' filing, should be denied.

II Sharing.

As the Companies indicated in the description and justification ("D&J") accompanying their filing,[5] they allocated their overall interstate "sharing" amount among the interstate service baskets based on the relative amount by which each basket earned in excess of the 12.25% sharing trigger. As indicated in the D&J, only two baskets, Special Access and Interexchange, had rates of return above the sharing trigger. Therefore, the sharing amount was allocated to those two baskets. In determining the appropriate allocation between those two baskets, the Companies calculated the amount of revenue attributable to each basket that

[4] Associated Press v. FCC, 488 F2d 1095 (D.C. Cir. 1971) at 1103.

[5] D&J at 7-9.

resulted in each basket's earning in excess of 12.25%. The sharing amount was allocated based on each of the two basket's share of this "revenue difference."

Allnet, AT&T, and MCI argue that this method of allocation violates the Commission's specific finding that sharing should not be based on per-basket earnings. Instead, these petitioners maintain that the allocation should be based on basket revenues.[6] Ad Hoc, on the other hand, commended the Companies for their use of an earnings-based allocation.[7]

First, the Companies' methodology complies with the Commission's directive that a price cap local exchange carrier's ("LEC's") overall sharing obligation should be determined by looking at overall interstate earnings.[8] By using total interstate earnings, the Commission sought to avoid a LEC having to share in one basket while falling short of achieving the unitary offset in another basket, a lose-lose situation.[9] Consistent with that ruling, the Companies determined their overall sharing obligation by first looking at total interstate earnings, not individual basket earnings.

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[6] Allnet at 1-4; AT&T at 1-6; MCI at 6; although not quite as strongly, Sprint (at 6) also questions the Companies' allocation method.

[7] Ad Hoc at 13-14.

[8] In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Order on Reconsideration, FCC 91-115 (released April 17, 1991)("Price Cap Reconsideration Order") at ¶ 94.

[9] In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Second Report and Order, FCC 90-314 (released October 4, 1990)("Second Report and Order") at ¶ 151. The Commission understood that a basket-by-basket examination of earnings might cause a "converse problem" in permitting a LEC to charge higher rates for a particular basket "even if interstate earnings in the other baskets and for the company as a whole were already adequate."

Once the overall sharing amount is calculated, that amount must be allocated to the four interstate service baskets. Contrary to its position in this matter, MCI, in its petition for reconsideration of the Second Report and Order, had asked the Commission to require that sharing be allocated on the basis of basket earnings.[10] While the Commission declined to adopt MCI's method as a requirement, it did not preclude its use. The Commission simply declined to specify any particular methodology for sharing allocation, stating that

> sharing adjustments, like all exogenous adjustments, [must] be flowed through on a cost-causative basis. *** We therefore find no present need to specify a particular method of reflecting "cost causation."[11]

The Commission further declined to adopt AT&T's recommendation to require uniform Part 69 allocation of all exogenous costs by price cap LECs, stating that

> one of the fundamental purposes of price cap regulation is to move away from "cost allocation" systems imposed by regulators.[12]

While the Companies do not intend to imply that the method that they used is the only correct method of allocating sharing among the baskets, they do contend that it is a reasonable and proper method. In deriving a method of allocation of overall interstate earnings, the Companies attempted to develop a "cost-causative" mechanism. The Commission's sharing mechanism

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[10] MCI Petition for Reconsideration at 23.

[11] Id. at ¶ 113. While Allnet (at 3) argues that the Commission has required that all basket PCIs be adjusted by sharing, a more reasoned view is that all baskets must be considered in any cost-causative allocation method. The Companies did look at all baskets from a cost-causative perspective. They eliminated two baskets from sharing only after determining that, according to their valid methodology, there was no cost-causative reason for including them. To require an allocation to every basket under all circumstances would in fact violate the Commission's cost-causative precepts.

[12] Id. at ¶ 77.

was intended to flow through to the LECs' customers a portion of the benefits of LEC productivity achievements. The Commission uses earnings as a surrogate for measuring productivity achievements. Given that fact, it appears to be reasonable to look back to the earnings of the individual baskets as an appropriate means of allocating the overall sharing amount. In other words, the Companies' allocation method distributes the overall sharing amount among the baskets in proportion to each basket's contribution to that overall sharing figure. And while the Companies did look at revenue as a possible allocator, they determined that, in this case, revenue provided no cost-causative basis for sharing because revenue by itself was no valid measure of productivity, either directly or as a surrogate, since it does not evaluate potentially inefficient cost increases.

Table I below compares each basket's contribution to sharing with the results of the revenue-based allocation method proposed by the petitioners and the method used by the Companies.

TABLE I

Comparison of Contribution to Overall
Sharing Amount and Sharing Allocation
(in millions of dollars)

Basket	Contribution to Sharing	Allocation Based on Revenues	Allocation Based on Earnings over 12.25%
Common Line	(11.1)	4.0	0
Traffic Sensitive	(2.1)	4.3	0
Special Access	10.7	1.7	4.7
Interexchange	12.8	0.3	5.6
Total	10.3	10.3	10.3

Note: "Contribution to Sharing" represents the difference between the actual earnings and the earnings that would have produced a 12.25% rate of return multiplied by 50%. To obtain the final sharing level, this total amount is then grossed up for taxes and interest resulting in the $18.2M reflected in Exhibit 4 of the D&J. The two columns displaying the allocation of sharing based on revenue and basket earnings above 12.25% display the earnings to be shared, not the final sharing amount.

As the table shows, using revenues as an allocator would result in crediting the Common Line and Traffic Sensitive baskets with a total of $8.3M even though those two baskets combined actually had a negative contribution to sharing of $13.2M. And while the Common Line basket earned at 10.58% in 1991, the revenue-based allocation would drive those rates even lower despite the fact that they earned below the Commission's authorized rate of return of 11.25%. Further, the revenue-based allocation would attribute only $2.0M to the Special Access and Interexchange baskets even though they contributed $23.5M to sharing.

On the other hand, Table I demonstrates the reasonableness of the Companies' methodology in their particular case. Special Access and

Interexchange are credited with the entire sharing amount in proportion to each basket's contribution.

MCI criticizes allocating portions of the sharing amount to the Interexchange basket because the Interexchange category has little investment and has never been targeted at the FCC's authorized rate of return.[13] That, in fact, is the argument that many carriers (including MCI[14]) used to maintain that Interexchange earnings should not be included in sharing in the first instance. However, the Commission decided to include Interexchange earnings in the sharing calculation. Given that fact, it seems only proper that the Interexchange category be credited with a "fair" portion of the sharing dollars.[15]

Allnet is simply wrong when it complains that the Companies' method of allocating sharing "cheats" because "with special access and interexchange rates below their respective price caps, no rates will be reduced to reflect past over-charges."[16] The Companies' actual price indices ("APIs") for the Special Access and Interexchange baskets are below price cap indices ("PCIs") because the Companies have already reduced prices to benefit their customers. The Commission encourages these up-front rate reductions.

> The LEC decides for itself whether to lower rates immediately; if it does so, the up front rate reductions will have much the same effect as the next-year reductions

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13 MCI at 6.

14 See MCI's Petition for Reconsideration at 24.

15 It should be noted that, if Interexchange earnings were not included in the sharing obligation, the Companies would have no sharing obligation to be reflected in this filing. In that light, an allocation method (revenues) that credits the Interexchange basket with only 3% of the sharing amount would not seem to be appropriate.

16 Allnet at 3. In fact, a strong argument could be made that the Companies' customers would be cheated by the unfair allocation of sharing that would result from using revenues as an allocator -- as shown on Table I.

required by the sharing plan, but will more immediately and effectively benefit both the LEC and the public.[17]

The Companies' decision to reduce Special Access and Interexchange rates in advance of forced reductions due to sharing have extended the benefit to customers sooner than the sharing adjustment would have provided. These up-front rate reductions have shared the productivity gains with the customers in real time. Moreover, these reductions do not detract from the fact that the Special Access and Interexchange baskets were in fact the only contributors to the Companies' overall sharing obligation and that, logically, they should receive the benefit of that sharing obligation.

In summary, the Companies' use of an earnings-based allocation to distribute the overall sharing amounts to the interstate service baskets is completely proper and provides no basis for rejection, suspension, or investigation of their tariff filing.

III. State Tax Rates Used to Calculate Sharing Amounts.

Sprint questions the composite state tax rate used in the Companies' calculation of the sharing amount, alleging that it "appears to be low."[18] The following Table II displays the state income and gross receipts tax rates used to calculate the Companies' sharing amount. The individual rates are weighted together to calculate the composite rates based on each state's share of revenue.

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[17] Second Report and Order at ¶ 135.

[18] Sprint at 8.

CERTIFICATE OF SERVICE

I, Jenell Thompson, do hereby certify that a copy of the Application for Partial Review has been mailed this 23rd day of June 1992, by first-class mail, postage prepaid, to the parties on the attached service list.

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